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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,007	07/24/2003	Robert Ginsburg	RADNT-008G3	9911

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EXAMINER

NASSER, ROBERT L

ART UNIT	PAPER NUMBER
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3735

DATE MAILED: 06/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/626,007

Applicant(s)

GINSBURG ET AL.

Examiner

Robert L. Nasser

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 50-84 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 64-84 is/are allowed.
- 6) ☒ Claim(s) 50-63 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 50-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saab 5624392 in view of Fontenot 5344436 et al and Ginsburg 5486208.

Saab shows a heat exchange catheter system including an elongate flexible catheter having a proximal and distal end, where the catheter has a distal insertion portion including balloon 122 which has a plurality of collapsible lobes 126-129, where each of the lobes is a lumen which is inflated under pressure and can carry heat exchange fluid. Hence, they are collapsible. The device further has a working lumen 11, which contains a guidewire therein (see column 8, lines 3-4). There is a fluid circulated through the balloon the effect heat exchange. It does not have an extracorporeal heat exchanger to circulate fluid through the catheter. Fontenot et al teaches a known manner to provide heat exchange fluid to a heat exchanger by supplying the fluid from an extracorporeal heat exchange device. Such an arrangement increase sterility of the system and eliminates leaks and provides for a more efficient construction (see column 4, first paragraph under summary of the invention). As such, it would have been obvious to modify Saab to use such a heat exchanger, to provide a more efficient fluid delivery system. In addition, the combination does not have the temperature sensor. However, Ginsburg teaches that such a sensor is desirable in a system

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like that of Saab to enable accurate control of the body temperature. Hence, it would have been obvious to modify the above combination to use a temperature sensor, to improve the overall accuracy of the method. With respect to claim 51, the balloon of figure 7 has a plurality of lobes. With respect to claim 57, 60, and 62 in column 14, lines 61-67, Saab teaches using the device to deliver medication or a medical device including a therapeutic device. As such, it is inherent that there would be a device for infusing the medicine. With regard to claims 58, 59, 61, and 63, applicant has not selected the specific devices listed for a specific reason and applicant has not stated that their selection solves a stated problem. Therefore, the exact medical device used with Saab's device would have been a mere matter of design choice for one skilled in the art.

Claims 64-84 are allowable. Claims 64-84 define over the art, in that none of the art shows the blood flow channeling sleeve, as recite in that claim. The examiner notes that tubes 244 or 246 of Saab might be considered a channeling sleeve, but they are closed at one end and therefore not capable of channeling blood.

Applicant's arguments filed 3/3/2006 have been considered, but are deemed moot in view of the new grounds of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert L. Nasser whose telephone number is 571 272-4731. The examiner can normally be reached on m-f 9-5.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor II can be reached on 571 272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Robert L. Nasser
Primary Examiner
Art Unit 3735

RLN
June 5, 2006


ROBERT L. NASSER
PRIMARY EXAMINER